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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 In re Ubiquiti Networks, Inc.  
4 Securities Litigation

18 Civ. 1620 (VM)

5 Fairness Hearing  
6 (Via Teleconference)

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7 New York, N.Y.  
8 March 27, 2020  
9 10:03 a.m.

10 Before:

11 HON. VICTOR MARRERO,

12 District Judge

13 APPEARANCES

14 POMERANTZ LLP

15 Attorneys for Lead Plaintiff

16 BY: JEREMY A. LIEBERMAN, ESQ.

17 MICHAEL GRUNFELD, ESQ.

18 SIMPSON THACHER & BARTLETT LLP

19 Attorneys for Defendant

20 BY: PETER E. KAZANOFF, ESQ.

21 JONATHAN T. MENITOVE, ESQ.

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1 THE COURT: Good morning. This is Judge Marrero.

2 ALL COUNSEL: Good morning, your Honor.

3 THE COURT: Do I have the parties on the line?

4 MR. LIEBERMAN: Yes, your Honor. Good morning.

5 Jeremy Lieberman and Michael Grunfeld from Pomerantz LLP on  
6 behalf of lead plaintiff.

7 MR. KAZANOFF: And good morning, your Honor. Peter  
8 Kazanoff and Jon Menitove from Simpson Thacher on behalf of the  
9 defendants.

10 THE COURT: And we have a court reporter on the line?

11 THE REPORTER: Yes, your Honor. Good morning. This  
12 is Khris Sellin.

13 THE COURT: Thank you all for making yourselves  
14 available for this conference by this means under very, very  
15 difficult and challenging circumstances. I very much  
16 appreciate the parties' cooperation in making it possible for  
17 us to proceed by telephone with this conference. I'm aware of  
18 the enormous hardships and difficulties that the current crisis  
19 is causing to everybody in the court, but with the kind of  
20 cooperation and support that you've all provided us, we're able  
21 by this means to enable the Court's work to continue; a little  
22 bit hobbled, but nonetheless we're getting there. Again, thank  
23 you.

24 This proceeding was scheduled some time ago to be the  
25 final approval of the case, the settlement that the parties had

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1 negotiated in connection with the class action. I have  
2 received and reviewed the documentations that the parties have  
3 provided indicating that they believe that settlement is fair  
4 and adequate to the class and why the Court should give final  
5 approval to the settlement. So the proceeding was scheduled as  
6 a hearing on that motion. I will then ask the plaintiffs,  
7 briefly, to indicate why they believe the settlement meets the  
8 various *Grinnell* factors under the Second Circuit's standard  
9 for approval of class settlements of this kind and the  
10 *Goldberger* factors of approval for attorney's fees in  
11 connection with a class action settlement.

12 Plaintiffs?

13 MR. LIEBERMAN: Sure. Good morning, your Honor. And  
14 on behalf of plaintiffs, we'd like to thank the Court for its  
15 attention throughout the case and being able to move forward,  
16 again, under difficult circumstances for the Court as well.

17 THE COURT: Let me ask -- sorry -- that when you  
18 speak, you identify yourself for the purposes of the reporter.

19 MR. LIEBERMAN: Sure. Jeremy Lieberman on behalf of  
20 lead plaintiffs.

21 THE COURT: Go ahead.

22 MR. LIEBERMAN: Sure. So your Honor, just to really  
23 recap what's already been stated in extensive detail in the  
24 papers, we believe the \$15 million settlement presented to the  
25 Court is an excellent result for the class and gives them

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1 immediate relief to what would otherwise be very extensive and  
2 hard-fought proceedings with no real guarantee of any recovery.  
3 We estimate the damages to be in a range of 100 to 180 million.  
4 Quite a big range, but it does depend on various models used on  
5 damages, and really the midpoint of that range puts one at  
6 11 percent here, which, according to the reports issued by  
7 Cornerstone and others, 11 percent settlement is well above the  
8 average in securities litigations and class actions in this  
9 circuit and throughout the nation.

10 The litigation was conducted in a manner that the  
11 parties were all well aware of the merits of the case. We  
12 filed an extensive amended complaint in this action. There was  
13 letter briefing before the Court regarding an anticipated  
14 motion to dismiss by defendants. Ultimately the Court  
15 indicated that it would likely deny the motion to dismiss,  
16 which helped precipitate mediation discussions with Jed Melnick  
17 of JAMS. Those discussions entailed significant briefing.  
18 There was a lot of briefing back and forth between the parties  
19 on a number of issues, particularly damages. There was a lot  
20 of discussion between plaintiffs and defendants as to the  
21 different damages models. Defendants were very adamant that  
22 our claimed damages here of 100 to 180 million was far too much  
23 and wasn't supportable. So we really got through a process  
24 that began in the fall of 2019, where we exchanged mediation  
25 briefs, had a mediation session, and ultimately were able to

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1 resolve the case for 15 million.

2 A key metric or key benchmark to look at as to whether  
3 or not the settlement is fair is whether or not there are any  
4 objections. Here, there's not one objection to this  
5 settlement, even though 170,735 notices have gone out to class  
6 members. Not one class member has objected to the settlement.  
7 There have been three exclusions to the settlement. That's  
8 quite also a low number in a case like this, as this Court  
9 knows. The exclusions amount to little more than several  
10 hundred shares of these particular stocks, so ultimately the  
11 clientele, as it were, speak to whether or not the settlement  
12 is good, and there's very little objection. There's zero  
13 objection and there are few exclusions, which means that class  
14 members want to participate in the settlement; they don't want  
15 to do anything to harm it.

16 So that's --

17 THE COURT: Mr. Lieberman?

18 MR. LIEBERMAN: Sure.

19 THE COURT: Let me pause there for a moment. You  
20 indicated that there were three exclusions. Of course this is  
21 a very minor point, but the supplemental declaration of  
22 Mr. Ewashko indicated that there were five exclusions. Is that  
23 three that you just indicated now a later number or what?

24 MR. LIEBERMAN: When we filed the initial final  
25 approval papers, there were three exclusions. Mr. Grunfeld, my

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1 partner, is on the phone with me. He might know better if it's  
2 five or three. Michael, is it five?

3 MR. GRUNFELD: Yeah, that's right. The Court is  
4 correct that it was five total with the final papers.

5 MR. LIEBERMAN: I apologize, your Honor. When we  
6 filed the initial papers, there were only three exclusions, and  
7 then apparently two more have now been filed. But --

8 THE COURT: Thank you.

9 MR. LIEBERMAN: Yeah. Ultimately the level of shares  
10 represented by all the exclusions, all five of them, are no  
11 more than several hundred.

12 So that's as far as the settlement goes.

13 As far as the attorney's fees are concerned, we're  
14 requesting the fee of 1/3, which, again, is really consistent  
15 with fees that are awarded. At this level of settlement,  
16 15 million, it's very typical and very standard, and we believe  
17 the *Goldberger* factors do warrant such an award. The  
18 settlement is a very good one for the class that we've been  
19 able to achieve. We've been working thus far on a fully  
20 contingent fee basis. As we mentioned in our briefing, the  
21 *Facebook* case, which was a \$26 million settlement, had a 1/3  
22 fee award; and the *El Paso* litigation had a \$15 million  
23 settlement and had a 1/3 fee award, as well as several others  
24 mentioned in our briefs as well had a similar level.

25 The requested fee here of 5 million would provide us

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1 with -- our lodestar in the case was 1.614 million, a fee with  
2 a multiplier of 3.10, and that's, again, well within the norm  
3 of this circuit. I refer the Court to the *WorldCom* litigation,  
4 where there was a 4.0 multiplier, and the *Payment Card Industry*  
5 *Litigation* litigation, which was a 3.41 multiplier. So again,  
6 the requested 3.10 multiplier is well within the standard of  
7 this circuit.

8 We also are asking for \$91,267.89 in fees and  
9 expenses, and that's in out-of-pocket expenses that are laid  
10 out by our firm, dealing primarily with expert reports,  
11 investigators, and other costs and matters that were necessary  
12 to litigate this action. Again, relatively small amounts in a  
13 case of this size, and well within the norm of this circuit.

14 The award that we're seeking for lead plaintiff is  
15 \$5,000 compensatory award. Again, we think lead plaintiff here  
16 did a substantial amount of work in overseeing the case, in  
17 overseeing the litigation. We put her name out there as the  
18 plaintiff and as someone, you know, who could have been a class  
19 member, and so we do think some compensatory award of \$5,000 is  
20 appropriate and, again, has been accepted by courts in the  
21 Second Circuit as an appropriate award.

22 So in all, as we've set forth in the papers and as I  
23 tried to summarize here, we do think the settlement meets all  
24 the *Grinnell* factors before this Court and then the fees  
25 requested, attorney's fees, meet the *Goldberger* factors, and we

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1 would request that the Court grant those.

2 THE COURT: All right. I thank you.

3 Any further word from anyone who wishes to address  
4 this issue? Defendants have anything to record?

5 MR. KAZANOFF: Your Honor, Peter Kazanoff from Simpson  
6 Thacher. We don't have anything to add other than to thank the  
7 Court, the Court's staff, including the clerk and the reporter,  
8 for making themselves available for this teleconference.

9 THE COURT: All right. I thank you.

10 Is there anyone from the public who wishes to speak?  
11 This proceeding is a public proceeding. We've made  
12 arrangements for there to be access to the press should anyone  
13 wish to listen in on the proceeding or any member of the public  
14 who may have gotten notice and wished to address the issues.

15 Hearing none, I am therefore closing the hearing.

16 On the basis of the Court's review of the parties'  
17 various submissions in support of the motion for final approval  
18 of the settlement, I am persuaded that the proposed settlement  
19 satisfies the *Grinnell* factors in that the amount of the  
20 settlement of \$15 million is fair and reasonable and adequate  
21 for the class. The issues involved here raised some very  
22 difficult substantive questions that the Court considered when  
23 the parties engaged in pre-motion conference letters relating to  
24 prospective motions to dismiss. Those were difficult issues.  
25 Although not fully litigated on point, the Court views them as

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1 having raised difficult questions of law that would have taken  
2 a substantial amount of time, effort, and resources to resolve  
3 ultimately.

4 The fact that there are no objections and there are  
5 only five exclusions indicates a view that the literally tens  
6 or hundreds of thousands of shareholders view this settlement  
7 as fair, adequate, and reasonable to them.

8 So on the basis of all of the *Grinnell* factors, the  
9 Court believes that the settlement should receive final  
10 approval.

11 And similarly, the Court is persuaded that the  
12 proposed attorney's fee of 1/3 is fair and adequate and  
13 reasonable to the class, given similar awards of attorney's  
14 fees in these types of class actions in this court, so the  
15 Court will grant the application for attorney's fees and  
16 reimbursement of \$91,267.89 in expenses, plus interest. And I  
17 will grant approval for lead plaintiff's request for an award  
18 of \$5,000.

19 I thank you all again. The Court will issue a final  
20 order today giving the final approval.

21 Have a good day and a good weekend.

22 ALL COUNSEL: Thank you very much.

23 THE COURT: Stay safe and healthy during the crisis,  
24 and thank you again for everything.

25 ALL COUNSEL: Thank you, your Honor.  
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